

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GEO. M. MARTIN COMPANY, a California  
corporation, and THE MARTIN FAMILY  
TRUST – 1989,

No. C 07-00692 WHA

Plaintiffs,

v.

**ORDER RE TRIAL ON  
STANDING**

ALLIANCE MACHINE SYSTEMS  
INTERNATIONAL, LLC, a Wyoming  
corporation,


Defendant.

The order dated April 30, 2008, denying defendant's motion for summary judgment that plaintiff George M. Martin Company lacks standing stated, "[m]ost likely, the issue of the company's standing to sue will be tried first with the infringement case to follow" (Dkt. 187). The parties were invited to address whether the exclusive-licensee issue was one for the Court or one for the jury. Defendant submitted a brief memorandum explaining the question was one for the Court. Plaintiffs then argued that the issue of standing was intertwined with the substantive issues of the case thereby making it a question for the jury. After reviewing the briefing submitted by plaintiffs, however, the Court finds that the facts relating to the standing issue are *not* intertwined with the other substantive issues of the case as defined under Federal Circuit law. In particular, the Court finds the issue of whether George M. Martin Company is an exclusive licensee separate and distinct from the issues of obviousness and royalty

1 calculations cited by plaintiffs. Accordingly, the Court will first hear evidence on the standing  
2 issue, resolve it, and then the remaining portion of the case will proceed to a jury.

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4 **IT IS SO ORDERED.**

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6 Dated: May 7, 2008.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE